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LETTER DATED 6 AUGUST 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached report addressed to me on 5 August 1993 by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia.

(Signed) Boutros Boutros-GHALI

Annex

Report of the Co-Chairmen of the Steering Committee on the activities of the International Conference on the Former Yugoslavia

INTRODUCTION

1. It is almost a year since efforts began within the International Conference on the Former Yugoslavia to stop the conflict in Bosnia and Herzegovina. During that time intensive, patient, and painstaking negotiations have been held with the sides involved in the conflict to help to reconcile their positions, but the historical background to the conflict, which stretches over centuries, and an intricately interwoven ethnic make-up in Bosnia and Herzegovina, have made this an exceptionally difficult and delicate task.

2. The past year's efforts have shown that the parties to the conflict are unable to make peace by themselves and even impartial intermediaries cannot always shift one or other of the sides from adopting intransigent and unreasonable positions, when they feel their vital interests are concerned. Nor can intermediaries keep them to their word. Cease-fires are entered into in the full knowledge that they are not going to be fulfilled, and other pledges broken within hours of being made.

3. On 2 May 1993, it appeared that a settlement was in sight: in Athens Mr. Karadzic added his signature to those of President Izetbegovic and Mr. Boban on the Vance-Owen peace plan (see S/25479, annex IV), but by 6 May the Bosnian Serb "Assembly" in Pale had rejected the plan. By 21 May, it had become clear that the international will was lacking to continue pushing for the 10-province solution proposed under the Vance-Owen peace plan and the substantial Bosnian-Serb military roll-back that was implied. As a direct consequence of appearing to move to merely containing Bosnian-Serb military gains, the Bosnian Croats, whose relations with the Bosnian Muslims were already under strain both in the Government of Bosnia and Herzegovina and as supposed military allies, started to act to consolidate their "Herceg Bosna". Relations between the Bosnian Croats and the Bosnian Muslims deteriorated day by day. This flare-up in the fighting led to a further wave of displaced persons crossing the new front lines and more roadblocks, and put increasing strain on the ability of international agencies to deal with the dramatically deteriorating humanitarian situation. With winter not far off, the prospects for the civilian population of Bosnia and Herzegovina began to look ever more dire.

4. The revival of the concept of a confederation for Bosnia and Herzegovina by Presidents Milosevic and Tudjman occurred when the Co-Chairmen visited Belgrade and Zagreb from 9 to 11 June 1993. The concept of a confederal solution for Bosnia and Herzegovina had first been proposed in March 1992 by Ambassador Cutileiro in Lisbon, when Lord Carrington was the European Community Peace Envoy. This proposal came even before the outbreak of war and was initially accepted by all three sides. However, President Izetbegovic withdrew his support for the proposal, and it was from then on vigorously opposed by the Bosnian Government side in the context of the International Conference on the Former Yugoslavia peace talks in Geneva.

5. In Belgrade the Serbs' initial outline map was put forward to the Co-Chairmen, consisting of a core area in central Bosnia for a Muslim-majority republic. There was no clearly defined access to the Sava in the north. In the south, the boundary ran just south of Jablanica. Access to Sarajevo was through a narrow bottleneck. The Muslim-majority republic was to have a slender finger of territory in eastern Bosnia and in the Bihac area the boundary was to be on the current line of confrontation.

6. The Co-Chairmen, after consultation with the Security Council and the European Community, attempted to clarify the Serb-Croat proposals and urge the Serbs and Croats to put forward proposals that took more account of the principles of the August 1992 London Conference, both in regard to any new Constitution, and to the size and shape of any republic in which the Muslims would be in a majority. They also emphasized the great importance of keeping as much of the Vance-Owen plan as possible in any new proposal, particularly those aspects relating to the protection of human rights and the reversal of ethnic cleansing.

7. The Co-Chairmen told the Serbs that the initial outline map would be totally unacceptable to the international community. If there was to be a new tripartite structure for the State of Bosnia and Herzegovina, the Serb and Croat sides had to be far more aware of the legitimate needs of the Muslim-majority republic. While they could not commit the international community to support this approach, the Co-Chairmen indicated to the Serb and Croat sides that, if they expected their proposals to be given serious consideration by President Izetbegovic, they would have to be reworked, and this work should be completed before they could arrange a meeting between President Izetbegovic and Presidents Milosevic, Bulatovic and Tudjman.

8. When the proposals were presented again to the Co-Chairmen on 15 and 16 June, it was an avowedly confederal solution. The Co-Chairmen advised strongly against both labelling and thinking in this way, for it would be seen as the first step towards secession. In addition, there had to be guarantees against the unilateral secession of any of the Constituent Republics. The map did, however, show some progress in extending the boundaries of a proposed Muslim-majority area towards the sea and their overall percentage of territory had been increased, but in eastern Bosnia their territory had decreased. The Co-Chairmen insisted that the three United Nations safe areas in eastern Bosnia - Srebrenica, Zepa and Gorazde - had to be retained, and that the overall percentage should not fall below 30 per cent. Progress was made, in cooperation with the Croatian Government, on guarantees for access to the port of Ploce. The Co-Chairmen also emphasized that allocation of a port area as well as access to the Sava River remained a major concern.

9. The Serb-Croat concept was explained to President Izetbegovic by Presidents Milosevic, Tudjman and Bulatovic. He listened carefully and asked for a detailed proposal that he could put before the Presidency.

10. On 23 June in Geneva the Serb and Croat sides came forward with nine constitutional principles (see S/26066, appendix I) after detailed discussion with the Co-Chairmen. These were presented to seven members of the Presidency, who had travelled to Geneva, and who also saw the "troika" of the European Community. The Presidency came up with constitutional proposals of its own,

based on a federal concept, which were presented to the Co-Chairmen on 11 July in Zagreb.

11. In the intervening period the Co-Chairmen remained in close contact with President Izetbegovic. They also had further contacts with Presidents Tudjman and Milosevic, and both Presidents agreed that any Muslim-majority republic should have at least 30 per cent of the territory of Bosnia and Herzegovina. However, a revised map presented in Belgrade on 8 July, although it had improved in some aspects, no longer included the three "safe areas" in Eastern Bosnia established under Security Council resolution 824 (1993). The Co-Chairmen warned that, if the Serb and Croat parties wanted the international community to accept their proposals, these areas had to be left in the Muslim-majority republic. They re-emphasized this point when they met Presidents Tudjman and Milosevic in Geneva on 17 July. On that occasion the two Presidents issued a statement saying that they were against the partition of Bosnia and Herzegovina, and that the only way to achieve permanent peace lay in the recognition of all the three constituent peoples.

I. THE CURRENT ROUND OF PEACE TALKS

12. It was against this background that the Co-Chairmen invited the three sides to participate in the latest round of negotiations.

13. The peace talks began on 27 July 1993 and are expected to continue on Monday, 9 August. The discussions concentrated on steps to secure a cease-fire and on ways and means of dealing with humanitarian issues; future constitutional arrangements; and the allocation of territory to the constituent entities.

14. Despite the undertakings of all three political leaders to end hostilities, the negotiations, as has been all too common, proceeded against the backdrop of continued fighting, although at a generally much reduced level. The major offensive activity throughout all but the last few days of the current negotiating period was the Bosnian Government's attack against the Bosnian Croats in central Bosnia, leading to the capture of Fojnica and of most of Gornji Vakuf. The Bosnian Serb attacks against the government forces around Sarajevo dominated the picture, started first on Zuc Hill, then on Mounts Bjelasnica and Igman. The Bosnian-Serb operations in northern Bosnia to widen their east-west corridor also continued. In southern Bosnia, the Bosnian Croats, with support from the Croatian Army, continued to build up in the general Prozor area prior to possible counter-attacks against the Bosnian government forces. Western and eastern Bosnia were generally quiet.

Cessation of hostilities and humanitarian issues

15. Following discussions on 27, 28 and 29 July 1993, President Izetbegovic, Mr. Karadzic and Mr. Boban agreed to issue immediate directives to their military commanders to implement a full cessation of hostilities. They further agreed that in order to reinforce this directive, the commanders of the three military forces should meet immediately at Sarajevo Airport under the chairmanship of the United Nations. Furthermore, the commanders should meet each day while the talks continued so as to discuss the causes of any conflict and to correct the situation. The commanders were also requested to discuss

whether any modifications were needed to the military agreement contained in the Vance-Owen peace plan, which all three sides had reaffirmed.

16. The military commanders of the three sides met at Sarajevo Airport on 30 July under the auspices of the Force Commander of the United Nations Protection Force (UNPROFOR). At the end of their meeting that day, they signed an agreement providing that all forces of the three parties cease combat activities and freeze all military activities, including military movements, deployment of forces and establishment of fortifications. The agreement also provided for permitting free passage for UNPROFOR convoys and convoy escorts, and free passage for humanitarian aid convoys (see S/26233, appendix I).

17. On 4 August, the Serb side agreed in principle to the Co-Chairmen's reiteration of the proposal for the opening up of Sarajevo. The general concept is the relief of the immediate humanitarian situation and the reversal of the strangulation of the people of Sarajevo by the opening up of selected routes to all movements of humanitarian goods, material and people. Checkpoints would need to be established to exclude any warlike goods. The Co-Chairmen put the proposal to members of the Presidency on 5 August; they agreed in principle without prejudice to their negotiating position. Both sides agreed to instruct their military commanders to enter into immediate negotiations, within the framework of the Mixed Military Working Group, with a view to reaching an early agreement on this proposal, which would have to be staged and subject to the strict upholding of the cease-fire. After a meeting in Pale on 5 August, Lieutenant General Briquemont and Mr. Karadzic issued a joint statement agreeing to the first stages in this process, to be followed up by a meeting on 6 August to consider the detail.

Constitutional Agreement

18. During the discussions on constitutional issues, all sides submitted working papers, which were distributed and discussed. Taking these submissions into account, and having regard to the issues raised in the discussions, a consolidated working paper was discussed and examined in detail, with all sides participating in an open and constructive manner.

19. After intensive discussion on a number of drafts submitted by the parties, with amendments submitted by all three parties, they agreed on 30 July to a constitutional agreement for a Union of Republics of Bosnia and Herzegovina (see appendix I) and to it forming part of an overall peace settlement.

20. In reply to a letter which President Izetbegovic sent to them on 31 July asking for clarification of chapter I, article 1, of the Constitutional Agreement and in particular the question of the membership in the United Nations of the Union of Republics of Bosnia and Herzegovina, the Co-Chairmen wrote as follows:

> "(a) Bosnia and Herzegovina is already a recognized State Member of the United Nations;
>
> "(b) The principles adopted at the London Conference, as well as the principles laid down by the Security Council, guarantee the sovereignty,

independence and territorial integrity of Bosnia and Herzegovina as a State Member of the United Nations;

"(c) Article I of the Constitutional Agreement, which all three parties have agreed to, states that 'the Union of Republics of Bosnia and Herzegovina will be a State Member of the United Nations'. We interpret this article in the spirit of the Charter of the United Nations, the Principles of the London Conference and the principles laid down by the Security Council and therefore confirm to you our understanding that the meaning of article 1 is that the Union of Republics of Bosnia and Herzegovina will continue as a State Member of the United Nations."

21. The Co-Chairmen subsequently suggested to the Presidency that, if it was still concerned about the issue, it should ask the Security Council to put the matter beyond doubt.

22. It should be noted that the provisions of the Constitutional Agreement make it legally impossible to dissolve the Union without the free consent of all three Constituent Republics.

Annexes to the Constitutional Agreement

23. In subsequent discussions with the parties the following annexes to the Constitutional Agreement were prepared and were accepted by all three sides.

Annex B: Composition and competence of the Human Rights Court

Annex C: List of human rights instruments incorporated in the Constitutional Agreement

Annex D: Initial appointment and functions of the Ombudsmen

Agreed arrangements concerning the Constitutional Agreement of the Union of Republics of Bosnia and Herzegovina

24. All three sides agreed that "the name of each Constituent Republic will be determined by the competent authorities of that Republic". Also all three sides agreed that "the map of the three Constituent Republics set out in part I of annex A to the Constitutional Agreement will be referred to the Boundary Commission established in accordance with chapter II, article 1 (b), of that Agreement, and the Commission shall ensure that the territory of the Republic marked as No. 1 on the map shall not be less than 30 per cent of the entire territory of the Union of Republics of Bosnia and Herzegovina" (see appendix II).

Access Authority

25. During the discussions, the Co-Chairmen stressed the vital importance of ensuring freedom of movement throughout the country. They proposed establishing an Access Authority (see appendix II), as had been foreseen under the Vance-Owen peace plan, with Access Authority throughways to ensure access in sensitive areas of the country after UNPROFOR withdraws. The roads designated as throughways are set out in appendix II. They also stressed that the

"blue route" concept in the Agreement for Peace in the Vance-Owen peace plan would also be maintained and this would ensure, within a few days, access through Sarajevo city and the surrounding areas out to key cities. Immediately UNPROFOR started to implement the military plan, there would be guaranteed road access along the designated "blue routes": Sarajevo-Ilidza-Hadzici-Tarcin-Jablanica-Mostar, Sarajevo-Rajlovac-Iliajas-Visoko-Zenica, Sarajevo-Bentbasa-Mokro-Sokolac-Vlasenica-Zvornik.

26. The railway and road from Ploce to Doboj which, after it crosses the Croatian border, follows the route Mostar-Jablanica-Sarajevo-Zenica-Doboj, would criss-cross all three of the proposed Constituent Republics. For this reason, the Co-Chairmen argued strongly that it should be run by the Access Authority and this too was agreed by all sides.

27. It was suggested by the Bosnian Serbs that, during the time that UNPROFOR was present in the country, a number of bypass roads could be built to give guaranteed access within the territory of each Constituent Republic, if they believed that this was necessary.

Access of Bosnia and Herzegovina to the sea

28. The Co-Chairmen considered this question of key importance and the participation of President Tudjman in the peace talks facilitated the negotiation between the Republic of Croatia and the three Bosnian parties of a preliminary agreement for implementing the 1965 Convention on Transit Trade of Land-Locked States in order to secure preferential access for the Union of Republics of Bosnia and Herzegovina to two Croatian ports on the Adriatic: Ploce and Rijeka. The draft agreement (see appendix IV) would in return provide Croatia with designated road and rail routes from the northern to the southern part of its territory through that of Bosnia and Herzegovina. The Co-Chairmen believe that this agreement will greatly benefit the economies of both States, and the draft has been supported by all three sides.

Military aspects of implementing a peaceful settlement

29. During the discussions, the three sides reaffirmed their acceptance of the Agreement for peace in Bosnia and Herzegovina, which deals with the military aspects of implementing a peaceful settlement for Bosnia and Herzegovina and further agreed that all necessary updating of the document would be undertaken by the Mixed Military Working Group under the chairmanship of UNPROFOR. This process is now under way in Sarajevo (see appendix III).

Territorial arrangements (see annex A to the Constitutional Agreement)

30. Once the Bosnian Presidency had agreed in principle to examine a possible three-republic structure for Bosnia and Herzegovina, the Co-Chairmen pursued the approach they had consistently taken through the weeks of clarification talks. Emphasizing that, while the maps were the responsibility of the parties, any solution based on three republics was inevitably going to be more ethnically based than that in the Vance-Owen peace plan. Yet other crucial factors had to be taken into account, including communications links, geography and economic viability. They repeatedly stressed, however, that the Muslim-majority republic

should have at least 30 per cent of the territory. This commitment was agreed by all three sides.

31. A series of intense and detailed bilateral and trilateral talks were held, during which the parties set out their positions. The Serb and Croat sides repeatedly referred to the fact that the Muslim-majority republic would contain most of the major population centres of Bosnia and Herzegovina, and also the majority of the industrial centres and natural resources, and that this justified the Serb-majority Republic having a higher percentage of the territory than envisaged in the Vance-Owen peace plan. Nevertheless, the Serbs claimed that with 30 per cent guaranteed for the Muslim-majority republic, they would be accepting a major roll-back of about 18 per cent.

32. A great deal of progress was made during the bilateral and trilateral talks when all parties engaged fully in the negotiations. After President Izetbegovic's temporary withdrawal from the negotiations because of the continued fighting, especially around Sarajevo, the Co-Chairmen did their best to make further progress and in particular to persuade the Serb and Croat sides to cede more territory, and clarify points of contention, in bilateral talks.

33. Brcko. A detailed Serb proposal emerged in discussions for dealing with the question of access to Brcko. A fly-over complex should be constructed on the western outskirts of Brcko, where the Tuzla-Brcko road crosses the Tuzla-Brcko railway line, involving the Tuzla-Brcko road, the Tuzla-Brcko railway line and a new road that will run from west to east. From the west side of the fly-over complex, the boundary of the Muslim-majority republic would run west along a line north of the Tuzla-Brcko railway; and run south-east to the Brcka river and from there south of the Tuzla road, skirting Broad and running east of Brka. To the north-east of this fly-over complex, the boundary of the Muslim-majority republic would run to the north-west of the town, to a point east of the junction of the Gorice-Brcko and Donji Rahic-Brcko roads and from there to the Sava River, east of the settlement of Grbavica. It would run north-east along the Brcka river, which would form the eastern boundary. The existing railway line running from the fly-over complex to the Sava in the territory of the Serb-majority republic would come under the Access Authority. The Access Authority would also be responsible for rebuilding the destroyed railway bridge across the Sava. The Presidency is considering its attitude to this proposal as part of the overall peace settlement.

34. Eastern Bosnia. President Izetbegovic pressed hard for a large area of territory in this area, going much wider than the three safe areas of Gorazde, Zepa, and Srebrenica. The Co-Chairmen had intense negotiations with the Serb side, which initially was reluctant to cede any territory at all. The Co-Chairmen managed to move them some way from their initial offer of giving the three special autonomous status within the Serb-majority republic. Eventually the Serb side conceded that Gorazde should be linked territorially to the central area of the Muslim-majority republic. An Access Authority throughway would link it from Sarajevo to just above Trnovo, then through Cajnice to the Montenegrin border and the Sanjak, as had been proposed in the Vance-Owen peace plan. Zepa and Srebrenica would be linked to each other and the territory around them enlarged by 100 per cent. They would be linked to the Muslim-majority republic by an Access Authority throughway to Kakanj. The Presidency

is considering its attitude to this proposal as part of an overall peace settlement.

35. Bihac pocket. The Co-Chairmen urged the Serb side to extend the boundary of the Bihac area eastward from the existing front line. They recalled that this was an area which stirred up strong emotions in the international community because of the widely documented ethnic cleansing that had taken place in such cities as Prijedor, Sanski Most and Bosanski Novi. President Milosevic backed the Co-Chairmen's requests for the boundaries of this area to go east of the Una river, and some concessions were made, but the basic Serb position was that this territory had been traditionally Serb prior to massacres during the Second World War. Guaranteed access from Bihac to Rijeka was agreed, as was an Access Authority throughway to Travnik and eastern Herzegovina. The Presidency is considering its attitude to this proposal as part of an overall peace settlement.

36. Posavina and eastern Herzegovina. The Serb and Croat sides are still continuing to negotiate on the exact boundary between their republics in the north at Posavina along the Sava, and in the south above Dubrovnik.

37. Central Bosnia. The boundary between the Croat and Muslim-majority republics in this region, where fighting was intense while negotiations were continuing, was an area of great contention. The atmosphere for negotiations was not improved by the offensive the Bosnian Government army launched in this region. A Serb-Croat proposal emerged for the boundary to run along the Lasva River from Travnik to the east. The Presidency is considering its attitude to central Bosnia and is hoping to have bilateral talks with the Croat side before the talks resume in Geneva.

38. Sarajevo. This was the most contentious issue during discussions on the future map, with positions deeply entrenched. The passions aroused are intense. The local loyalties, mainly Muslim and Serb, though also Croat, of those living in the city itself and in the surrounding settlements are fierce, and have been heightened by more than a year of fighting. For any side, reaching a compromise by taking a decision to give up territory that has been held by their people through these months is an intensely difficult and emotive issue.

39. The Serbs proposed that all of the inner city of Sarajevo would be in the Muslim-majority republic, and to make this possible, they are prepared to leave the area of Grbavica, which they currently hold. They believe, however, that they need to compensate for this by having the housing estate at Nedarici, which they hold, and the whole of the Dobrinja housing estate, the centre of which the Bosnian Government holds, in the Serb-majority republic.

40. Both the Muslim-majority republic and the Serb-majority republic would have access to the airport, with the boundary between the two republics running down the centre of the runway. The Muslim-majority republic's access to the airport would be through Stup, to the north of the airport. The Serb side would have access to Ilidza, Ilijas and Hadzici, all areas which they wish to retain, from the south of the airport. Road access from Pale to the airport would initially be via a throughway running along the transit route through the south of the city. The Serbs intend to build a bypass as soon as possible.

41. The Serbs propose that, in order to provide guaranteed access to the city from the north, Vogosca, which is currently held by the Serbs, and the area around it would become part of the Muslim-majority republic. Of the settlements surrounding Sarajevo, the Serb-held areas of Ilijas, Rajlovac and Ilidza would form part of the Serb-majority republic. In order to link the Serb-held areas of Ilidza and Lukavica, which have a majority Serb population, the settlements of Butmir, currently held by the Bosnian Government, and Hrasnica, parts of which are held by the Government, would come within the Serb-majority republic.

42. The railways running into the city from the north and south would cross over the proposed boundaries a number of times, and since it is in the interests of all parties to allow the free flow of traffic on them, they would be under the Access Authority.

43. The Serb side would undertake to construct a bypass on the territory of the Muslim-majority republic linking the main Mostar road to the Zenica road and would be responsible for building another bypass linking the Zenica road to the main Tuzla-Sarajevo road east of Ilijas.

44. It has been agreed by all sides that the main road running south from Sarajevo to just above Trnovo would be an Access Authority throughway and also that Sarajevo airport would come under the Access Authority.

45. For President Izetbegovic, and many among the Presidency and the opposition leaders who attended the talks in Geneva, the very idea of dividing the area surrounding Sarajevo from the city itself in any way is inconceivable. They believe that having fought for the idea of a united country, they cannot live with a solution which, regardless of what happens in the rest of the country, divides their capital city. They sense that they have world opinion on their side on this issue. On the other hand, the Serb side is equally adamant that Sarajevo is surrounded by areas that have been traditionally Serb for centuries, and which throughout the war have remained in Serb hands, and that these areas should be in the Serb-majority republic. They intend that the capital of the Serb-majority republic would be built around the Serb settlement of Ilidza.

46. This dilemma over Sarajevo is not new to the Co-Chairmen. During these last 10 days, many of the concepts that had previously come up during the negotiations on the Vance-Owen peace plan were gone over yet again in considerable detail. These included all of the parties sharing the administration of the whole of Sarajevo (the 3-3-3 concept developed during the Vance-Owen negotiations), a small capital building area coming under joint administration and other similar schemes on which agreement is unlikely to be reached.

47. The Serb proposal that eventually emerged after long and difficult discussions with the Co-Chairmen, who warned them that it would present great difficulties to the other parties, was not acceptable to President Izetbegovic and a majority of the Presidency. It raised a number of problems, above and beyond the fundamental criticism of splitting the valley in which Sarajevo city itself nestles between the mountains. They had doubts over access from the city to the rest of the Muslim-majority republic, which was vital, although the Serb side had reluctantly agreed to give up the Vogosca area. They were also

concerned about the Rajlovac area, which overlooks the road and rail access routes running to and from the city centre.

Comment

48. Under these circumstances, the Co-Chairmen are driven to the belief that it may not be possible to negotiate a permanent solution in Sarajevo for some time. Time may be needed for the wounds of the war to heal; time to restore the damage done to communications and buildings in the Serb, Muslim and Croat areas; time during which the three republics will learn to live and cooperate together and for the citizens of Bosnia and Herzegovina to rediscover mutual respect and tolerance.

49. Sarajevo is already designated a United Nations safe area. The Co-Chairmen believe that the Security Council and the international community will have to consider whether a temporary solution might have to be found, which may have to last one or more years. During this time it could be easier for both sides to move towards a permanent settlement, compatible with the Constitutional Agreement that has been a major product of the present period of negotiations.

II. IMPLEMENTATION

50. The Co-Chairmen have proceeded on the basis that, if agreement was reached on the concepts outlined above, from the start of implementation of the Agreement for peace in Bosnia and Herzegovina, the force established or charged by the United Nations with assisting in implementing an greement (the Implementation Force) would, after the relevant Security Council resolutions, begin implementing all key aspects of the Agreement for peace in Bosnia and Herzegovina. It has been envisaged that the Implementation Force would have its responsibilities phased out and withdraw once free and fair elections were held, which would have to take place no later than two years after the signature of the Agreement relating to Bosnia and Herzegovina. In respect of those areas designated as "safe areas" under Security Council resolution 824 (1993), apart from Sarajevo, which is dealt with above, and Tuzla and Bihac which would not be as vulnerable as the others, the United Nations has said that it would give special protection as a temporary measure. It is possible that the United Nations Security Council might wish to continue to protect Srebrenica, Zepa and Gorazde for a period longer than after the elections, but that is a judgement which it is unlikely to make at this moment.

51. The Implementation Force would have responsibility for opening up and guaranteeing key communications links, as outlined above. It would only be following the withdrawal of the Implementation Force that sole responsibility for ensuring access and freedom of movement along roads and railways would fall to the Access Authority.

52. The Implementation Force would begin overseeing the separation of forces and the withdrawal of heavy weapons, which would facilitate the reopening of routes and the free movement of people. It would then move on to progressive demilitarization of the entire country.

53. During the implementation period, the civil elements of the Implementation Force would supervise the various civil engineering projects needed to effect the longer-term access arrangements, in particular in Brcko and Sarajevo. In the early months following a settlement, many temporary solutions would have to be adopted by local agreement. The Implementation Force would assist in devising and implementing such solutions prior to the realization of permanent solutions.

54. The Co-Chairmen cannot stress enough to the Security Council and the European Community and the rest of the international community the vital need for an effective Implementation Force. The early dispatch of a credible force will itself ensure the greatest chance of achieving the objectives of the peace settlement including the reversal of ethnic cleansing and the monitoring of human rights. The world has watched in dismay and despair as the horror has unfolded in Bosnia and Herzegovina. Nevertheless the humanitarian effort over the last winter was immense and broadly successful. Peace now is imperative, but to ensure that it is not peace at any price, the world must pay the price of a serious and successful implementation period.

Appendix I*

Constitutional Agreement of the Union of Republics of Bosnia and Herzegovina

I. THE UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA

Article 1

The Union of Republics of Bosnia and Herzegovina is composed of three Constituent Republics and encompasses three constituent peoples: the Muslims, Serbs and Croats, as well as a group of other peoples. The Union of Republics of Bosnia and Herzegovina will be a State Member of the United Nations, and as a Member State it shall apply for membership in other organizations of the United Nations system.

Article 2

The flag and emblem of the Union of Republics of Bosnia and Herzegovina shall be specified by a law adopted by the Union Parliament.

Article 3

(a) Citizenship of Bosnia and Herzegovina shall be determined by a law adopted by the Union Parliament.

(b) Every person who on the entry into force of this Constitutional Agreement was entitled to be a citizen of the Republic of Bosnia and Herzegovina shall be entitled to be a citizen of a Constituent Republic as well as of the Union of Republics of Bosnia and Herzegovina.

(c) Dual citizenship shall be allowed.

(d) Decisions about citizenship shall be made by the designated organs of the Constituent Republics, subject to appeal to the competent courts.

Article 4

Neither the Union of Republics of Bosnia and Herzegovina nor any of the Constituent Republics shall maintain any military force, and any forces existing on the date of the entry into force of this Constitutional Agreement shall be progressively disarmed and disbanded under the supervision of the United Nations and the European Community.

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* Previously reproduced in document S/26233, appendix II.

II. CONSTITUENT REPUBLICS AND THEIR RESPONSIBILITIES

Article 1

(a) The boundaries of the Constituent Republics shall be as set out in annex A, part I. Except as provided in paragraph (b) below, the boundaries of the Republics may be changed only by the procedure provided for amending this Constitutional Agreement.

(b) Marginal changes in the boundaries set out in annex A may be made by the Presidency on the recommendation of a Boundary Commission, which shall receive evidence from those specifically affected by them. The Commission shall consist of five persons appointed by the Secretary-General of the United Nations, of whom three shall be persons recommended by representatives of the three constituent peoples.

(c) The areas specified in annex A, part II, even though within the territory and under the jurisdiction of a Constituent Republic, shall be vested in the Union of Republics of Bosnia and Herzegovina, for the purpose of ensuring access by all citizens to buildings of the Union in Sarajevo, to the sea at Neum and to the Sava River.

(d) There shall be no border controls on boundaries between the Constituent Republics, and there shall be free movement of persons, goods and services throughout the territory of the Union of Republics of Bosnia and Herzegovina.

Article 2

(a) Each of the Constituent Republics shall adopt its own Constitution, which shall provide for democratic forms of government, including democratically elected legislatures and chief executives and independent judiciaries, as well as for the highest standards of human rights and fundamental freedoms. No provision of these Constitutions may be inconsistent with this Constitutional Agreement.

(b) The initial elections in each Constituent Republic shall be supervised by the United Nations and by the European Community.

Article 3

All governmental functions and powers, except those assigned by this Constitutional Agreement to the Union of Republics of Bosnia and Herzegovina or to any of its institutions, shall be those of the Constituent Republics.

Article 4

All acts taken by a competent governmental authority of any of the Constituent Republics shall be accepted as valid by the other Constituent Republics.

III. COMMON INSTITUTIONS OF THE UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA

Article 1

(a) The Presidency of the Union of Republics of Bosnia and Herzegovina shall consist of the President, or of an appointee of the legislature, of each of the Constituent Republics.

(b) The Chairmanship of the Presidency shall rotate every four months among the members of the Presidency. The Chairman of the Presidency shall represent the Union of Republics of Bosnia and Herzegovina.

(c) The Presidency shall take all its decisions by consensus.

Article 2

(a) The head of the Council of Ministers of the Union of Republics of Bosnia and Herzegovina shall be the Prime Minister, who shall be appointed and may be removed by the Presidency. The post shall rotate every year so as to be occupied in turn by the nominee of the President of a different Constituent Republic.

(b) The Presidency shall also appoint and may remove a Foreign Minister. The post shall rotate every year so as to be occupied in turn by the nominee of the President of a different Constituent Republic.

(c) The Prime Minister and the Foreign Minister shall be from different Constituent Republics.

(d) Other Ministers may be appointed by the Presidency. They and the Prime Minister and the Foreign Minister shall constitute the Council of Ministers, with responsibility for the policies of the Union of Republics of Bosnia and Herzegovina in relation to foreign affairs, international trade and the functioning of the common institutions, as well as any other functions and institutions that the Union Parliament may from time to time specify by law.

Article 3

(a) The Parliament of the Union of Republics of Bosnia and Herzegovina shall be composed of 120 representatives, one third each to be elected by the respective legislatures of the Constituent Republics.

(b) The Union Parliament may by a simple majority of the members from each Constituent Republic adopt laws within the competence of the Union of Republics of Bosnia and Herzegovina.

Article 4

The Union of Republics of Bosnia and Herzegovina shall have the following courts:

(i) A Supreme Court, composed of four judges appointed by the Presidency, no two of whom shall be from the same peoples, which, except as specified in subparagraph (iii) below, shall be the final court of appeals from the courts of the Constituent Republics;

(ii) A Constitutional Court, composed of three judges appointed by the Presidency, no two of whom shall be from the same Constituent Republic, which shall be competent to resolve by consensus disputes among the Constituent Republics, between any of these and the Union of Republics of Bosnia and Herzegovina or any of its common institutions, and among any of these institutions. Should the Court not be constituted or be unable to resolve a dispute, it shall be referred for a binding decision by a standing arbitral tribunal composed of judges of the International Court of Justice or members of the Permanent Court of Arbitration, one each of whom shall be selected by the President of each of the Constituent Republics and two of whom shall be selected by the Presidency or, if it is unable to do so, by the Secretary-General of the United Nations and by the President of the Council of Ministers of the European Community;

(iii) A Court of Human Rights to be established in accordance with resolution 93 (6) of the Committee of Ministers of the Council of Europe, whose precise composition and competence shall be as set out in the agreed annex B.

Article 5

Joint authorities between two or more of the Constituent Republics may be established by agreement of the Republics concerned if approved by a law adopted by the Union Parliament.

IV. INTERNATIONAL RELATIONS

Article 1

(a) The Union of Republics of Bosnia and Herzegovina shall apply for membership of European and international institutions and organizations, as decided by the Presidency.

(b) Any Constituent Republic may apply for membership of an international organization if such membership would not be inconsistent with the interests of the Union of Republics of Bosnia and Herzegovina or of either of the other Constituent Republics.

Article 2

(a) The Union of Republics of Bosnia and Herzegovina shall remain a party to all international treaties in force for the Republic of Bosnia and Herzegovina on the date of the entry into force of this Constitutional Agreement, unless the Union Parliament decides that steps to denounce any such treaty shall be taken. However, treaties entered into after 18 November 1990 shall be considered by the Union Parliament within a period of three months from

the entry into force of this Constitutional Agreement and shall remain in force only if the Union Parliament so decides.

(b) The Union of Republics of Bosnia and Herzegovina shall continue all diplomatic relations until the Presidency decides to continue or discontinue them.

(c) The Union of Republics of Bosnia and Herzegovina may become a party to international treaties if such participation is approved by the Union Parliament. The Parliament may by law provide for participation in certain types of international agreements by decision of the Presidency. To the extent such participation would involve responsibilities that are to be carried out by the Constituent Republics, their advance approval must be secured, except in respect of the treaties referred to in chapter V, article 3, below.

(d) Any Constituent Republic may, if eligible, become a party to an international treaty if such participation would not be inconsistent with the interests of the Union of Republics of Bosnia and Herzegovina or of either of the other Constituent Republics.

V. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 1

(a) Subject to article 2 below, all persons within the territory of the Union of Republics of Bosnia and Herzegovina shall be entitled to enjoy the rights and freedoms provided for in the instruments listed in annex C.

(b) Should there be any discrepancy between the rights and freedoms specified in any of these instruments, or between any of these and the rights and freedoms specified in any other legal provisions in force, the provision providing the greater protection for human rights and fundamental freedoms shall be applied.

Article 2

All courts, administrative agencies and other governmental organs of the Union of Republics of Bosnia and Herzegovina and of the Constituent Republics shall apply and conform to the rights and freedoms specified in the instruments listed in parts I and IV of annex C. The rights specified in the instruments listed in parts II and III of annex C shall be considered as aspirations to be attained as rapidly as possible; all legislative, judicial, administrative and other governmental organs of the Union and Republic Governments shall take these rights appropriately into account in promulgating, executing and interpreting any legislative provisions designed to or otherwise suitable for implementing such rights and in otherwise carrying out the functions of these organs.

Article 3

The Union of Republics of Bosnia and Herzegovina shall as soon as possible become a party to each of the international treaties listed in annex C.

Article 4

All organs of the Union and Republic Governments shall cooperate with the supervisory bodies established by any of the instruments listed in annex C, as well as with the International Human Rights Monitoring Mission for Bosnia and Herzegovina established by the United Nations.

Article 5

(a) All citizens shall have the right to settle in any part of the territory of the Union of Republics of Bosnia and Herzegovina. They shall have the right to have restored to the many property of which they were deprived in the course of ethnic cleansing and to be compensated for any property which cannot be restored to them.

(b) The Union Parliament, as well as the legislatures of the Constituent Republics, shall enact laws to assist in implementing these rights.

Article 6

To assist in implementing the rights and freedoms specified in this chapter and in particular in article 5 (a) above, ombudsmen shall be appointed and carry out functions initially as specified in annex D and thereafter as specified in a law adopted by the Union Parliament.

VI. FINANCES

Article 1

(a) The Union Parliament shall each year, on the proposal of the Prime Minister and with the subsequent approval of the Presidency, adopt a budget covering the expenditures required to carry out only those functions of the Union of Republics of Bosnia and Herzegovina relating to the maintenance of its common institutions and compliance with its international obligations, as well as such other functions as may from time to time be agreed by the Union Parliament.

(b) If no such budget is adopted in due course, the budget for the previous year shall be used on a provisional basis.

Article 2

(a) The expenditures provided for in the budget shall, except to the extent that other revenues are available or as otherwise specified in a law adopted by the Union Parliament, be covered in equal part by each of the Constituent Republics.

(b) Other sources of revenues, such as custom duties, fees for services or taxes on specified activities, may be determined by law.

VII. THE CONSTITUTIONAL AGREEMENT

Article 1

(a) This Constitutional Agreement may be amended by decision of the Union Parliament, when such amendment has been approved by each of the Constituent Republics according to its constitutional processes.

(b) No amendment may be adopted that abolishes or diminishes any of the rights or freedoms specified in chapter V.

Article 2

(a) This Constitutional Agreement may not be abolished and none of the Constituent Republics may withdraw from the Union of Republics of Bosnia and Herzegovina without the prior agreement of all of the Republics. Such a decision may be appealed to the Security Council by any of the Constituent Republics, and the Council's decision shall be final.

(b) Should any of the Constituent Republics withdraw from the Union of Republics of Bosnia and Herzegovina, the areas specified in annex A, part II, that are within the territory of such Republic shall remain a part of the Union of Republics of Bosnia and Herzegovina.

Article 3

This Constitutional Agreement shall enter into force when approved as part of the overall peace settlement by representatives of the three constituent peoples, and on a date specified by them.

Annex A

I. THE BOUNDARIES OF THE CONSTITUENT REPUBLICS

The boundaries of the Constituent Republics shall be as indicated on the map below, subject to any changes that may be made in accordance with chapter II, article 1 (b), of the Constitutional Agreement.

II. AREAS VESTED IN THE UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA

1. The area defined by the present opstina of Neum and that part of the present opstina of Stolac that lies below the southern border of the Constituent Republic that extends up through Sarajevo to Brcko on the Sava.

2. That part of the railway line from Tuzla that passes across Brcko to the railway bridge on the Sava.

3. Those public buildings in the city of Sarajevo and in the surrounding area that are designated by the Presidency to be used by the Union Parliament, the Council of Ministers, the Supreme, Constitutional and Human Rights Courts and the administrative institutions of the Union.

Annex B

Composition and competence of the Human Rights Court

Article 1

The Human Rights Court of Bosnia and Herzegovina (the "Court" shall operate within the framework of the mechanism established by the Council of Europe by resolution 93 (6) of its Council of Ministers, as that resolution may be amended from time to time.

Article 2

(a) The Court shall initially consist of nine judges.

(b) The Presidency shall appoint four of the judges of the Court, one from each recognized group: Muslims, Serbs, Croats and others. These judges shall enjoy tenure and shall not require reappointment.

(c) The Committee of Ministers of the Council of Europe shall appoint five of the judges of the Court in accordance with the above-cited resolution. These judges may not be citizens of the Republic of Bosnia and Herzegovina nor of neighbouring States.

(d) If the Court concludes that its business requires the participation of more judges to avoid undue delays in the disposition of cases, the Government shall make arrangements with the Council of Europe for the appointment of additional judges, in accordance with the above-specified proportion of national and foreign judges.

Article 3

(a) The Court shall regulate its own procedures and its organization.

(b) Each panel of the Court is to have the composition specified for the Court in article 2, paragraphs (b) and (c), of the present annex.

(c) The equality of the parties shall be ensured in every proceeding.

(d) The Court shall allow written and oral pleadings in every proceeding pursuant to articles 5 to 7 of the present annex.

Article 4

The competence of the Human Rights Court shall extend to any question concerning a constitutional or other legal provision relating to human rights or fundamental freedoms or to any of the instruments listed in annex C to the Constitutional Agreement.

Article 5

Any party to a proceeding in which another court of the Union of Republics of Bosnia and Herzegovina or of any of its Constituent Republics has pronounced a judgement that is not subject to any other appeal (for a reason other than the lapse of a time-limit for which the moving party is responsible), may appeal such judgement to the Court on the basis of any question within its competence. The decision of the Court on such an appeal shall be final and binding.

Article 6

(a) An appeal may also be taken to the Court if a proceeding is pending for what it considers an unduly long time in any other court of the Union of Republics of Bosnia and Herzegovina or of any of its Constituent Republics.

(b) The Court shall decide whether to accept such an appeal after a preliminary consideration of whether the proceeding in the other court had been pending too long and whether the subject of the appeal is within its competence.

Article 7

Any appellate court of the Union of Republics of Bosnia and Herzegovina or of any of its Constituent Republics may, at the request of any party to a proceeding pending before it or on its own motion in relation to such a proceeding, address to the Court a question arising out of the proceeding if the question relates to any matter within the competence of the Court. The response of the Court is binding on the requesting court.

Article 8

The Court shall continue to function until the Union of Republics of Bosnia and Herzegovina becomes a party to the European Convention on Human Rights and Fundamental Freedoms, unless the Council of Europe mechanism referred to in article 1 of the present annex ceases at some earlier date to be in force in respect of the Union of Republics of Bosnia and Herzegovina.

Annex C

Human rights instruments incorporated in the Constitutional Agreement

A. General human rights, especially civil and political rights

1. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide

2. The 1948 Universal Declaration of Human Rights, arts. 1-21

3. The four 1949 Geneva Conventions on the laws of war, and the two Geneva Protocols thereto of 1977

4. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and Protocols 1 to 10 thereto

5. The 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto

6. The 1965 International Convention on the Elimination of All Forms of Racial Discrimination

7. The 1966 International Covenant on Civil and Political Rights and the Optional Protocols thereto of 1966 and 1989

8. The 1979 International Convention on the Elimination of All Forms of Discrimination against Women

9. The 1981 [United Nations] Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

10. The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

11. The 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

12. The 1989 Convention on the Rights of the Child

B. Protection of groups and minorities

13. The 1990 Council of Europe Parliamentary Assembly Recommendation on the Rights of Minorities, paras. 10-13

14. The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

C. Economic, social and cultural rights

15. The 1948 Universal Declaration of Human Rights, arts. 22-27

16. The 1961 European Social Charter and the Protocol I thereto

17. The 1966 International Covenant on Economic, Social and Cultural Rights

D. Citizenship and nationality

18. The 1957 Convention on the Nationality of Married Women

19. The 1961 Convention on the Reduction of Statelessness

Annex D

Initial appointment and functions of the Ombudsmen

I. GENERAL PROVISIONS

Article 1

(a) The Ombudsmen are to protect human dignity, rights and liberties as provided in the Constitutional Agreement and in the instruments listed in annex C thereto, and in the constitutions and legislation of the Constituent Republics, and in particular shall act to reverse the consequences of the violations of these rights and liberties and especially of ethnic cleansing.

(b) In carrying out their functions, the Ombudsmen must be guided by law and by the principles of morality and justice.

Article 2

Each Ombudsman shall exercise his functions individually, except as otherwise provided herein. Two or more Ombudsmen may cooperate in carrying out any of their functions.

Article 3

The Ombudsmen are independent in carrying out their functions and no governmental organ or any other person may interfere with such functions.

Article 4

(a) There shall be four Ombudsmen, one from each recognized group: Muslims, Serbs, Croats, and others. Until the Parliament adopts a law relating to the appointment and functioning of the Ombudsmen, these shall be appointed and may be removed by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia, after consultations with the members of the Presidency.

(b) Each of the Ombudsmen shall, with the approval of the Presidency, appoint one or more deputies.

(c) The terms of service of the Ombudsmen and their deputies shall be the same respectively as those of the President and of judges of the Supreme Court.

(d) Each Ombudsman shall also appoint additional staff within the framework of the budget approved therefor by the Parliament or initially by the Presidency.

II. THE COMPETENCE AND THE POWERS OF THE OMBUDSMEN

Article 5

The Ombudsmen may follow the activities of any common institution of the Union of Republics of Bosnia and Herzegovina or of any organ of a Constituent Republic or of governmental units subordinate thereto, as well as of any other institution or person by whom human dignity, rights or liberties may be negated or ethnic cleansing may be accomplished or its effects preserved.

Article 6

In the course of carrying out his functions, an Ombudsman may examine all official documents, including secret ones, as well as judicial and administrative files, and require any person (including any official) to cooperate, in particular by transmitting relevant information, documents and files. Ombudsmen may also attend court and administrative hearings, as well as meetings of other organs and enter and inspect any place where persons deprived of their liberty are confined or work.

Article 7

The Ombudsmen, their deputies and any other person who carries out inquiries pursuant to article 6 above, are required to maintain the secrecy of whatever they learn in the course of such inquiry, and must treat all documents and files in accordance with the applicable rules.

III. REPORTS OF THE OMBUDSMEN

Article 8

(a) Each Ombudsman shall present an annual report to the Presidency of the Union of Republics of Bosnia and Herzegovina, to the Presidents of each of the Constituent Republics and to the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia.

(b) An Ombudsman may also present at any time special reports to any competent authorities.

IV. REGULATIONS OF THE OMBUDSMEN

Article 9

Each Ombudsman shall draw up, or the Ombudsmen may collectively draw up, regulations that specify their organization and the method of exercising their functions, which shall be promulgated in the Official Journal of the Union of Republics of Bosnia and Herzegovina, as well as in the Official Journals of the Constituent Republics. These regulations may be changed by a law adopted by the Parliament.

Appendix II

Agreed arrangements concerning the Constitutional Agreement of the Union of Republics of Bosnia and Herzegovina

1. The name of each Constituent Republic will be determined by the competent authorities of that Republic.

2. The map of the three Constituent Republics set out in part I of annex A to the Constitutional Agreement will be referred to the Boundary Commission established in accordance with chapter II, article 1 (b), of that Agreement, and the Commission shall ensure that the territory of the Republic marked as No. 1 on the map shall not be less than 30 per cent of the entire territory of the Union of Republics of Bosnia and Herzegovina.

3. Access Authority:

(a) Pursuant to chapter III, article 5, of the Constitutional Agreement, there shall be established, immediately on the entry into force of that Agreement, an Access Authority, charged with assisting in the implementation of section II, article 1 (d) of the Agreement requiring free movement of persons, goods and services throughout the territory of the Union of Republics of Bosnia and Herzegovina;

(b) The purpose of the Authority will be to guarantee full freedom of movement in certain essential areas between and within the Constituent Republics, and also to and from these Republics to the Republic of Croatia and the Republic of Serbia;

(c) The members of the Authority shall be three persons appointed by the Presidency, one from each Constituent Republic. Its headquarters shall be in or around the city of Sarajevo;

(d) Even though the Authority is to be in operation as soon as possible following the entry into force of the Constitutional Agreement, inevitably there will be an initial period when the United Nations Protection Force will have sole responsibility for freedom of movement along designated "blue routes" around Sarajevo and "throughways" ensuring freedom of movement along the key roads and railway lines throughout the country. Thereafter there will be a period of overlapping responsibility of the United Nations Protection Force and the Authority, during which the Force's responsibility for the Authority's designated routes will be phased out, and these responsibilities assumed by the traffic police of the Authority. This transfer of responsibility requires the agreement of all members of the Authority. The traffic police will be seconded to the Authority from the police forces of the Constituent Republics;

(e) The following shall be the routes to be controlled by the Access Authority:

(i) The road and railway line from Metkovic on the border of the Republic of Croatia to the centre of the city of Sarajevo;

(ii) The railway from the city of Sarajevo to Visoko and Doboj;

(iii) The railway through Brcko to the bridge across the Sava;

(iv) The road from Bihac to Jajce and Travnik;

(v) The road from Nevisinje to Mostar airport;

(vi) The road from Srebrenica to Kladanj;

(vii) The road from Gorazde through Cajnice to the border;

(viii) Sarajevo airport;

(ix) The so-called "Transit Road" through the south of the city of Sarajevo;

(x) The road between Sarajevo and the crossing point north of Trnovo which gives access to Gorazde;

(xi) The road between Bosanski Brod (via Derventa, Doboj, Zenica) and Sarajevo;

(xii) The road from the border of the Republic of Croatia near Velika Kladusa (via Cazin, Bihac, Kljuc, Jajce, Donji Vakuf) to Mostar;

(xiii) The road between Donji Vakuf (via Travnik) and Zenica.

Appendix III

Agreement on the termination of the conflict

The Parties reaffirm their acceptance of the Agreement for peace in Bosnia and Herzegovina (see S/25479, annex IV). The Mixed Military Working Group that had been established by the International Conference on the Former Yugoslavia shall, under the chairmanship of the United Nations Protection Force, update that Agreement and make any necessary amendments, in particular in relation to the Constitutional Agreement. Any new agreement that is signed by representatives of the Parties shall, to the extent that it so provides, replace and supersede the preceding document.

Appendix IV

Preliminary Agreement between the Republic of Croatia and the Parties to the Constitutional Agreement establishing the Union of Republics of Bosnia and Herzegovina for implementing the 1965 Convention on Transit Trade of Land-Locked States

The Republic of Croatia

and

the Parties to the Constitutional Agreement establishing the Union of Republics of Bosnia and Herzegovina

Considering that, as successors to the Socialist Federal Republic of Yugoslavia which had been party to the Convention on Transit Trade of Land-Locked States concluded in New York on 8 July 1965 (hereinafter the "Convention"), the Republic of Croatia and the Union of Republics of Bosnia and Herzegovina should apply between them the provisions of the Convention,

Further considering that the Union of Republics of Bosnia and Herzegovina is to be considered a "land-locked State" within the meaning of that Convention and that with respect to Bosnia and Herzegovina the Republic of Croatia is a "transit State" within the meaning of the Convention,

Desiring to conclude an agreement, on a basis of reciprocity - in accordance with article 3 (1) (a) of the Convention on the High Seas quoted in the preamble to the Transit Trade Convention and with article 15 of that Convention - to establish, as foreseen in paragraph 2 of article 2 of the Convention, the rules governing traffic in transit and the use of means of transport passing across Croatian territory between the territory of the Union of Republics of Bosnia and Herzegovina and the Adriatic Sea, and when passing across territory of the Union of Republics of Bosnia and Herzegovina in transit between places of entry and exit which are both on Croatian territory, as well as to regulate other matters foreseen in the Convention,

HEREBY AGREE AS FOLLOWS:

Article 1

(a) Freedom of transit under the terms of the present Preliminary Agreement shall be granted to both Parties on the basis of reciprocity.

(b) The Croatian ports of Ploce and Rijeka are designated as those to which the Union of Republics of Bosnia and Herzegovina is to have access, as foreseen in the Convention, and the routes, by road and as appropriate by rail, between Ploce and Sarajevo and between Rijeka and Bihac are the ones as to which special rules are to be adopted.

(c) The roads on the territory of the Union of Republics of Bosnia and Herzegovina:

(i) Between the Croatian border near Velika Kladusa (via Cazin, Bihac, Kljuc, Jajce, Donji Vakuf, Bugonjo, Jablanica and Mostar) and the Croatian border on the south, as well as the road between Donji Vakuf (via Travnik) and Zenica where this road links with the road under (ii) below;

(ii) Between Bosanski Brod (via Dervanta, Doboj, Zenica, Sarajevo and Mostar) and the Croatian border on the south;

shall be the ones to which the freedom of transit, in accordance with the Convention, shall be granted to the Republic of Croatia.

(d) The same freedom of transit shall be granted to the Republic of Croatia on the so-called "Una railway line" on the territory of the Union of Republics of Bosnia and Herzegovina between Bosanski Novi (via Bihac) and the Croatian border on the south in the direction of Knin.

(e) The reference to specific ports of Croatia and the roads and the railway line within the Union of Republics of Bosnia and Herzegovina, and specific points of entry from Croatia and the Union of Republics of Bosnia and Herzegovina and from Bosnia and Herzegovina to Croatia, are not intended to exclude the facilitation by both States of transit trade through other ports or points of entry.

Article 2

The parties shall immediately start negotiating, with a view to concluding by _____ 1993, an agreement relating to all aspects of the implementation of the Convention and this Preliminary Agreement, covering in particular the following subjects:

1. Specification of the primary routes, by road as well as by rail, from the ports to the cities specified in article 1;

2. Rules governing the means of transport over the routes and the railroad specified in article 1 (art. 2 (2) of the Convention);

3. Facilities existing, or to be built, within the specified ports that are to be specially dedicated to traffic of the Union of Republics of Bosnia and Herzegovina might be permitted to operate and develop with the consent of the Republic of Croatia;

4. Possible imposition of special transit dues, tariffs or charges (arts. 3 and 4 of the Convention);

5. Special customs and other measures to facilitate transit trade (art. 5 of the Convention);

6. Conditions of storage of goods in transit (art. 6 of the Convention);

7. Possible establishment of free zones in the designated ports (art. 8 of the Convention);

8. Exceptions on grounds of public health, security and protection of intellectual property (art. 11 of the Convention);

9. Exceptions in case of emergency (art. 12 of the Convention);

10. Application of the Agreement in time of war (art. 13 of the Convention);

11. Settlement of disputes pursuant to article 16 of the Convention.

Article 4

Pending the conclusion of the agreement referred to in article 2 above, the Republic of Croatia and the Union of Republics of Bosnia and Herzegovina shall facilitate, as far as it is possible, their mutual transit trade, as defined in the present Agreement.

DONE this ____ day of August 1993, at Geneva, in three copies, each in the English, Croatian and Serbian languages, which shall be equally authentic.

FOR THE REPUBLIC OF CROATIA

FOR THE PARTIES TO THE CONSTITUTIONAL AGREEMENT ESTABLISHING THE UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA

Witnessed:

Thorvald STOLTENBERG

Lord David OWEN